

DEPARTMENT OF THE ARMY
UNITED STATES ARMY FIELD ARTILLERY CENTER AND FORT SILL
FORT SILL, OKLAHOMA 73503

USAFACFS Supplement 1
to AR 27-10

4 March 2002

Legal Services
MILITARY JUSTICE

Further supplementation of this supplement by subordinate
commanders is prohibited.

AR 27-10, [20 August 1999](#), is supplemented as follows.

Page 1, Paragraph 1-1, Purpose. Add the following subparagraphs.

a. This supplement prescribes additional policies and procedures governing the administration of military justice at the United States Army Field Artillery Center and Fort Sill (USAFACFS) and applies to all assigned and attached units, organizations, and activities. Failure to adhere to the provisions of this supplement will not confer any benefit upon an individual soldier accused of an offense.

b. The provisions of this supplement shall continue to remain applicable despite changes in page and paragraph numbers in the basic regulation.

Page 1, Paragraph 1-3, Explanation of abbreviations and terms. Add the following to end of paragraph.

As used in this supplement, the term "Cdr, USAFACFS" is synonymous with the term "General Court-Martial Convening Authority," and "GCMCA." "OSJA" means the Office of the Staff Judge Advocate, USAFACFS. "SJA" means the Staff Judge Advocate, USAFACFS and is synonymous with the office symbol "ATZR-J." "DSJA" means the Deputy Staff Judge Advocate, USAFACFS. Reference to the "Criminal Law Division" means that division within the Office of the Staff Judge Advocate, Fort Sill, responsible for the administration of military justice at the USAFACFS and is synonymous with reference to the office symbol "ATZR-JB."

Page 1, Paragraph 1-4, Responsibilities. Add subparagraph d after subparagraph c.

*This supplement supersedes USAFACFS Supplement 1 to AR 27-10, 13 April 1999.

d. The Staff Judge Advocate, USAFACFS, is responsible for the supervision and administration of military justice within USAFACFS and the management of military justice assets therein.

Add paragraph 1-5 after paragraph 1-4.

1-5. GENERAL POLICIES.

a. Commanders should maintain discipline within the command with a minimum resort to punitive action. Use nonjudicial punishment and courts-martial only when lesser measures have failed or would be inappropriate.

b. In addition to the routine coordination between commanders and the Office of the Staff Judge Advocate (OSJA), commanders are responsible for immediately informing supporting Trial Counsel; Chief, Criminal Law Division; the DSJA; or the SJA of any incident of serious misconduct or any incident of criminal misconduct by an **officer, warrant officer, or senior noncommissioned officer (SGM/E9)** within their command.

c. **Commanders must ensure that the GCMCA is given notice and kept informed of incidents of misconduct involving officers, warrant officers, and senior NCOs (E9).** "Misconduct" includes any incident for which punitive or adverse administrative action may be imposed. Commanders are encouraged to seek the advice and assistance of their Trial Counsel at all stages of the initiation and processing of military justice actions.

d. Processing Time. Process UCMJ actions expeditiously without unnecessary administrative delay. The following procedures apply:

(1) Hand carry legal documents to the maximum extent possible.

(2) Give highest priority to processing of actions involving an accused in pretrial confinement or retained past normal ETS.

(3) Absent extraordinary circumstances, acting commanders should not hold a legal action pending return of the commander.

(4) Do not assign duties to legal NCOs/specialists (assigned to battalion or brigade level) that are inconsistent with their MOS when such duty will delay the processing of legal actions.

e. Acting commanders must sign legal documents as acting commander, and will attach a copy of the assumption of command orders to the document prior to forwarding.

Page 1, Paragraph 2-4, Grants of Immunity. Add subparagraph e after subparagraph d.

e. Local Grants of Immunity. Commanders and law enforcement personnel will not conduct negotiations relating to grants of immunity from prosecution. Direct all questions regarding immunity from prosecution to Chief, Criminal Law Division; the DSJA; or the SJA, Fort Sill.

Page 7, Paragraph 3-2, Use of Nonjudicial Punishment. Add subparagraph d after subparagraph c.

d. On-Post Traffic Offenses.

(1) Except with the approval of Cdr, USAFACFS, the authority to impose nonjudicial punishment for **on-post** traffic offenses in privately-owned vehicles is withheld from subordinate commanders. Dispose of traffic offenses occurring on Fort Sill Military Reservation in the United States Magistrate Court. The Magistrate Court prosecutor is located in the Criminal Law Division, OSJA.

(2) As an exception to policy, commanders who wish to impose nonjudicial punishment or prefer court-martial charges for on-post traffic offenses will submit a written request through SJA, ATTN: Criminal Law to Cdr, USAFACFS. Approval of these requests is at the discretion of Cdr, USAFACFS.

(a) The request will identify the soldier, list the offense(s), and provide detailed reasons for the exception to policy.

(b) Accomplish the request and any subsequent approval prior to arraignment in U.S. Magistrate Court.

(3) Commanders may consider administrative elimination IAW AR 635-200, chapter 14, for discreditable involvement with civil or military authorities for enlisted cases and AR 600-8-24, chapter 4, for officer cases.

Page 8, Paragraph 3-7, Who May Impose Nonjudicial Punishment. Add subparagraphs 3-7a(5) and (6), and subparagraph 3-7d.

(5) Rear detachment commanders do not have authority to impose nonjudicial punishment unless Cdr, USAFACFS has designated the unit a provisional unit.

(6) Special Court-Martial Convening Authorities (SPCMCA), with concurrence from the GCMCA, may attach batteries and similar units directly under their command to a specified intermediate commander for imposition of field grade nonjudicial punishment and for action of appeals from company grade nonjudicial punishment. Direct such attachments in writing by the SPCMCA, furnish two copies to Cdr, USAFACFS, ATTN: ATZR-JB.

d. Limitation on Exercise of Disciplinary Authority over Commissioned Officers, Warrant Officers, and Senior Noncommissioned Officers (E9). **The authority to impose nonjudicial punishment for acts of misconduct committed by commissioned officers, warrant officers, or senior noncommissioned officers (E9) is withheld from subordinate commanders and will be exercised by the DCG, USAFACFS or Cdr, IIId ACA, as appropriate.** When a commissioned officer, warrant officer, or senior noncommissioned officers (E9) is suspected of having committed misconduct for which nonjudicial punishment is deemed appropriate by the subordinate commander, forward all available evidence through the jurisdictional chain-of-command through SJA, ATTN: Criminal Law, to **DCG, USAFACFS or Cdr, IIId ACA.** In no event will you send actions directly to **DCG, USAFACFS or Cdr, IIId ACA.**

Page 10, Paragraph 3-16, Summarized Proceedings. Add the following to subparagraph f.

Forward a copy of all summarized Article 15's (DA Form 2627-1) imposed by commanders to the legal NCO/specialist for the respective Special Court-Martial Convening Authority. We will use this copy to compile statistics required for the Report of Judicial and Disciplinary Activity in the Army (JAG2) in accordance with AR 27-10, paragraph 15-2.

Page 10, Paragraph 3-18a Notification and Explanation of Rights. Add the following to subparagraph a.

Paragraph 2 of DA Form 2627 will give the location of legal counsel as "U.S. Army Trial Defense Service" along with the correct building number.

Page 11, Paragraph 3-18c Right to Counsel. Add the following to end of paragraph 3-18c.

No commander or any other person shall prevent or discourage a soldier from consulting counsel. Should a soldier elect to exercise the right to consult with counsel, the commander will ensure that the soldier is provided **a copy** of the relevant DA Form 2627 and copies of all existing statements or evidence upon which the allegation(s) is based. Access to such information is essential to the counsel advising the soldier. Failure to provide such information may result in an unnecessary delay of the proceedings.

Page 12, Paragraph 3-19b(1) Correctional Custody. Add the following to the end of paragraph.

Since there is no correctional custody facility at Fort Sill, do not impose the punishment of correctional custody.

Page 12, Paragraph 3-19b(5) Extra Duties. Add subparagraph (f) after subparagraph (e).

(f) Time Limits on Performance of Extra Duty. Limit the punishment of extra duty imposed upon soldiers of this command to the following periods of time, as a maximum.

(1) Personnel with normal duty hours.

(aa) Duty Days - Retreat to 2200.

(ab) Nonduty Days - Reveille to 2200, except for normal meals and periods of worship.

(2) Shift Personnel.

(aa) Duty Days - not more than 5 hours following termination of a shift or preceding the shift.

(ab) Nonduty Days - Reveille to 2200, except for normal meals and periods of worship.

Page 15, Paragraph 3-32, Action by the Imposing Commander or the Successor-in-Command. Add subparagraphs a and b.

a. In cases where Cdr, USAFACFS, is the Article 15 appeal authority, include the following matters in the appeal packet.

(1) All copies of the DA Form 2627 (except the one given the soldier).

(2) Any written statements or other documentary evidence pertaining to the case which has been considered by the officer imposing the punishment.

(3) Any statements or documents which the soldier wants to have considered along with his/her appeal.

(4) A written statement from the officer imposing the punishment setting forth his or her rebuttal to the appeal and any other matter deemed appropriate for consideration by the Commanding General.

(5) The soldier's DA Form 2-1 and 2a.

b. Appeals forwarded to Cdr, USAFACFS, will be forwarded to the OSJA, ATTN: Criminal Law.

Page 16, Paragraph 3-34, Action by a Judge Advocate. Add subparagraph e after subparagraph d.

d. Appeals from nonjudicial punishment forwarded for review by a judge advocate will include--

(1) Supporting documentation to substantiate each offense charged (e.g., MP or CID Report, sworn statements, etc.).

(2) Any matters submitted by the soldier, including matters submitted on appeal.

(3) A statement in rebuttal by the imposing commander as described in para 3-32 of basic regulation, if desired.

Page 25, Paragraph 5-2, Courts-martial jurisdiction. Add paragraphs 5-2.1, 5-2.2, and 5-2.3 after paragraph 5-2.

5-2.1. Limitations on whom may convene special and summary court-martial.

a. Pursuant to the authority contained in Article 23, UCMJ, and R.C.M. 504 (b) (2), MCM, authority to convene special and summary courts-martial is limited to the commanders of the following organizations.

(1) U.S. Army Field Artillery Training Center.

(2) Personnel and Support Battalion.

(3) 17th Field Artillery Brigade.

(4) 30th Field Artillery Regiment (Prov).

(5) 75th Field Artillery Brigade.

(6) 212th Field Artillery Brigade.

(7) 214th Field Artillery Brigade.

(8) 4th Brigade, 75th Division.

b. Battalion commanders may request on a case-by-case basis authority to convene Summary Courts-Martial. Make requests for such authority in writing to the appropriate Special Court-Martial Convening Authority (SPCMCA) listed at subparagraph a above. Approvals from the SPCMCA granting such authority will be in writing and made part of the record.

5-2.2. United States Magistrate Court.

a. All active duty military personnel on Fort Sill are subject to being cited for on-post violations of the motor vehicle and other criminal laws of the State of Oklahoma assimilated into Federal law by Section 132 of Title 18, United States Code.

b. Violations of assimilated state criminal laws associated with or arising from a motor vehicle violation, will normally be disposed of by the United States Magistrate. The procedure for requesting withdrawal from Magistrate Court for the purpose of preferring courts-martial charges is set forth in paragraph 3-2d(2).

c. Appearance of a soldier before the United States Magistrate does not restrict the commander's use of adverse administrative actions against the soldiers. Such actions may include among others: reprimands, counseling, extra training to correct a noted deficiency, administrative reduction IAW AR 600-8-19 or the initiation of an administrative elimination action.

5-2.3. Witnesses. When charges are forwarded, give careful attention to inclusion of available information concerning availability of witnesses (including ETS and home address and PCS moves). Commanders will take necessary precautions to insure the continued presence of all witnesses required for trial by court-martial. The unit commander preferring the charges will initiate administrative hold procedures through his trial counsel to the AG. This procedure will be initiated even when the witness is assigned to another unit. Unit commanders will coordinate absences (leaves, passes or TDY) of potential witnesses with the trial counsel.

Page 28, Paragraph 5-13, Pretrial confinement. Add subparagraphs (1), (2), (3), (4), and (5) to subparagraph 5-13c, and add subparagraph 5-13d after subparagraph 5-13c.

(1) Only the Special Court-Martial Convening Authority (SPCMCA) who has jurisdiction over the accused may order pretrial confinement. The SPCMCA may delegate approval authority to a deputy commander or executive officer/chief of staff, but such delegated authority may be exercised only when the SPCMCA cannot be personally contacted. The approving authority need not personally sign a confinement order, you must note his/her approval on the confinement order by showing: "Pretrial confinement approved by (name) (date) (time)."

(2) You may order pretrial confinement only with the approval of the Staff Judge Advocate (SJA) or Deputy Staff Judge Advocate (DSJA). The SJA/DSJA does not have to personally sign the confinement order. If the SJA/DSJA does not personally sign the confinement order, you must note the SJA/DSJA's concurrence on the confinement order by writing: "SJA/DSJA concurs with pretrial confinement at (Time) (Date) (Name of person taking VOCO)."

(3) Without the approval of the SPCMCA and the concurrence of the SJA/DSJA, pretrial confinement will be not approved.

(4) When possible, afford an accused an opportunity to consult with defense counsel prior to being placed into pretrial confinement. If this is not possible, make every effort to ensure that a soldier placed in pretrial confinement consults with legally qualified counsel within 72 hours.

(5) The SPCMCA ordering a soldier into pretrial confinement will cause a copy of the following documents to be delivered to the Chief, Criminal Law Division; the Senior Defense Counsel, Trial Defense Service; and the Fort Sill Military Magistrate within 1 duty day after pretrial confinement is imposed.

(a) Anticipated Charges; (DA Form 458).

(b) MP or CID Report (when applicable).

(c) Witness statements (when applicable).

(d) Documentary evidence (when applicable).

(e) Confinement Order (DD Form 497).

(f) Pretrial Confinement Checklist (DA Form 5112).

(g) Unit Commander's Memorandum. Will address at a minimum: (1) specific reasons why pretrial confinement is necessary, (2) lesser forms of restraint previously imposed (if any), and (3) why lesser forms of restraint are inadequate.

(6) Prefer charges as soon as possible after a soldier is placed in pretrial confinement. Unless good cause exists, any delay should be no longer than 7 days after pretrial confinement is imposed. An example of good cause is when awaiting evidence necessary for formulation of charges and specifications.

d. Release from pretrial confinement. Expeditiously release soldiers (same day when possible) from pretrial confinement when--

(1) Release is ordered by a military magistrate (See AR 27-10, paragraph 9-5).

(2) The SPCMCA who ordered pretrial confinement, his/her successor in command, or a superior commander determines that pretrial confinement is no longer required.

(3) A command decision is made to dispose of charges by nonjudicial punishment or through some nonpunitive action.

(4) A discharge in lieu of trial by court-martial submitted by the soldier pursuant to AR 635-200, chapter 10, is **approved** by the General Court-Martial Convening Authority.

Page 28, Paragraph 5-15, Forwarding of Charges. Add subparagraphs d, e, f, and g.

d. Article 32 Investigations.

(1) When it appears that trial by general court-martial is warranted, the Special Court-Martial Convening Authority (SPCMCA) will appoint a commissioned officer to conduct an Article 32, UCMJ, investigation. **The appointed officer must be a field grade officer.** DSJA or SJA must approve any exception to the requirement for a field grade prior to any proceeding.

(2) Immediately after being appointed, the investigating officer will contact Administrative Law Division, Office of the SJA (442-5846/2388) to coordinate an information briefing with the legal advisor.

(3) An Article 32, UCMJ investigation takes precedence over all other duties.

(4) The SPCMCA appointing the investigating officer will provide adequate clerical and administrative support to ensure the investigation is completed expeditiously.

(5) Investigating officers are only required to make a summarized record of the formal hearing. Verbatim records of Article 32, UCMJ, investigation proceedings are prohibited unless specifically directed by the General Court-Martial Convening Authority.

e. Processing AR 635-200, Chapter 10 Requests.

(1) The Staff Judge Advocate will control the administrative processing of all AR 635-200, chapter 10 requests other than those submitted as part of DFR/AWOL returnee processing initiated by the Personnel Control Facility, Fort Sill. Commanders receiving requests for discharge in lieu of trial by court-martial from soldiers will expeditiously deliver these requests to Chief, Criminal Law Division, Office of the Staff Judge Advocate.

(2) OSJA may obtain commanders recommendations (approval or disapproval) telephonically. Record these recommendations in a Memorandum for Record (MFR) signed by the individual obtaining the recommendations. The MFR will be made an enclosure to the chapter 10 request that the SJA will present to the GCMCA for decision.

(3) Quickly process Chapter 10 requests. They will normally be presented to the GCMCA for decision within 7 working days after initiated by the accused.

f. Commanders must give personal and continued attention to the prompt and expeditious handling of court-martial matters to reduce the time between preferral of charges or pretrial restraint and final disposition of the case. Commanders are

encouraged to coordinate with their Trial Counsel or Chief, Criminal Law Division before preferring court-martial charges. The following specific timelines are Fort Sill standards:

(1) Summary Courts-Martial. From the date of preferral to receipt of the finalized record of trial at SJA: 21 days.

(2) Special Courts-Martial. From the date of preferral to referral: 4 days. From the date of referral to trial: 10 days. From the date of trial to convening authority action: 10 days. From date of action by convening authority to date of delivery of the record of trial to SJA: 2 days.

(3) Special Courts-Martial Empowered to Adjudge a Bad Conduct Discharge. From date of restraint or preferral of charges (whichever is earlier) to date of delivery of charges and allied papers to the trial counsel: 4 days. (Regarding individuals in restraint also see paragraph 5-13c(6)).

(4) General Courts-Martial. From date of restraint or preferral of charges (whichever is earlier) to date of appointment of an Article 32 Investigating Officer: 3 duty days. From date of appointment of an Article 32 Investigating Officer to date of completion of report: 7 duty days. ALL DEFENSE REQUESTS FOR DELAY AND THE ACTION BY THE ARTICLE 32 INVESTIGATING OFFICER THEREON WILL BE MADE IN WRITING. From date of receipt of Article 32 Investigation by officer ordering the investigation to date of delivery to the trial counsel: 2 duty days.

g. Commanders exercising special court-martial jurisdiction will include in their forwarding recommendation explanations of delays that exceed the above guidance.

Page 28, Paragraph 5-16. Referral of Charges. Add subparagraph c after subparagraph b.

c. Referral to Summary Court-Martial.

(1) The unit legal NCO/specialist will inform the unit trial counsel of charges intended for summary court-martial prior to preferral.

(2) When a convening authority refers charges to trial by summary court-martial, a report of such referral will be made to the Criminal Law Division, OSJA, telephonically (442-3900/3737) or, by sending a copy of the charge sheet by facsimile (442-7370) within 24 hours. Provide the following information:

(a) Name, grade, SSN, and unit of accused.

(b) Nature of offenses and date of latest offense.

(c) Date charges preferred.

(d) Date of referral to trial.

(e) Date of trial if known. Update this information as changes occur until the case is tried and a report of results of trial is furnished.

Page 29, Paragraph 5-18c, Preliminary Procedures. Add the following in the end of the paragraph.

Authority to excuse court members prior to assembly of a court-martial is delegated to the Staff Judge Advocate.

Page 29, Paragraph 5-21, Procedure for Summary Courts-Martial. Add subparagraph f after subparagraph e.

f. The authority to convene summary courts-martial is reserved to commanders listed in paragraph 5-2.1a. The process for requesting an exception is stated in paragraph 5-2.1b. **Officers appointed as Summary Courts-Martial Officers must be at least field grade.** DSJA or SJA must approve any exception to the requirement for a field grade officer prior to any proceeding. Immediately after being appointed, the Summary Court-Martial Officer will contact the Administrative Law Division, Office of the SJA (442-5846/2388) to coordinate an information briefing with the legal advisor.

Page 30, Add Paragraph 5-27a, Acquittals. Add the following to paragraph a.

Administratively transfer a soldier acquitted of all charges and specifications at any court-martial convened by the GCMCA to another SCMCA jurisdiction within 5 days of the completion of the court-martial.

Page 35, Paragraph 7-1, General. Add the following to end of paragraph.

Duty as a court-martial panel member takes priority over all other duties. Forward requests for excusal to the GCMCA through SJA and provide sufficient details to allow the GCMCA to make an informed decision regarding whether to grant an excusal.

Page 59, Paragraph 15-1, Preparation. Add subparagraph c after subparagraph b.

c. Commanders exercising special court-martial jurisdiction will forward consolidated reports to Cdr, USAFACFS, ATTN: ATZR-JB, not later than the first working day after the end of each calendar month. (Requirements of AR 335-15 are waived for this action.)

Page 64, Paragraph 18-10 Victim/Witness Liaison (VWL). Add subparagraph c after subparagraph b.

c. SJA is responsible for the overall administration of the Fort Sill Victim/Witness Liaison Program.

USAFACFS Suppl 1 to AR 27-10, 4 March 2002

The proponent of this supplement is the Staff Judge Advocate (SJA), USAFACFS. Send comments and suggested changes on DA Form 2028 (Recommended Changes to Publications and Blank Forms) through channels to the Commander, USAFACFS, ATTN: ATZR-J, Fort Sill, Oklahoma 73503.

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